



North Carolina General Assembly

ENVIRONMENTAL REVIEW COMMISSION

MINUTES

October 15, 2009

Welcome and Attendance

The Environmental Review Commission of the North Carolina General Assembly held its first meeting of the 2010 interim on October 15 in Room 544 of the Legislative Office Building.

Chairman Lucy Allen presided.

Also present with Chairman Allen was Co-Chairman Bob Atwater, Co-Chairman Daniel Clodfelter, Co-Chairman Pryor Gibson, Senator Charlie Albertson, Senator Stan Bingham, Senator Ellie Kinnaird, Senator A. B. Swindell, Representative Pricey Harrison and Representative Cullie Tarleton. Advisory members present were Senator Fletcher Hartsell, Representative Johnathan Rhyne and Representative Russell Tucker. Staff present was Commission Counsel Jeffrey Hudson, Commission Counsel Jennifer McGinnis, Assistant Commission Counsel Tim Dodge, Commission Analyst Jennifer Mundt, Research Assistant Mariah Matheson and Commission Clerk Jessica Kozma Bennett.

The meeting was called to order at 9:15 a.m. Chairman Allen welcomed members and guests. She then recognized staff, thanking them for their efforts. She noted that Ms. Bennett, Commission Clerk, would soon get married.

A draft agenda was distributed electronically October 8. A reminder note was distributed to membership October 14. Chairman Allen asked members to introduce themselves. Membership followed suit, stating their home counties or towns. Chairman Allen said she hoped membership would be "engaged" for this Interim. There would be many tough issues to tackle, she said, encouraging members to work with Co-chairs.

Introductory remarks by Co-chairmen

Having no additional comments added by Chairman Allen's fellow chairman, she moved to Item 3 of the agenda.

Report to the Commission, explanation of agenda items, and a discussion of studies that the Commission is authorized to undertake

Chairman Allen recognized Mr. Hudson, commission counsel, to speak to Item 3. Mr. Hudson thanked Chairman Allen and began explaining changes to Commission protocol. Planning meetings, “a 605,” previously conducted each month prior to regular Commission meetings has ceased, Mr. Hudson said. The Commission will become more “electronic,” he said, decreasing the amount of paper used by the Commission.

Report to the Commission on environmental legislation enacted during the 2009 Regular Session and pending for the 2010 Regular Session

Ms. McGinnis and Ms. Mundt, commission counsel and analyst, respectively, were recognized by Chairman Allen to review recently enacted and pending legislation. Ms. McGinnis and Ms. Mundt began their review of enacted legislation:

- *S.L. 2009-12*: Authorize Grandfather Mountain as a State Park
- *S.L. 2009-439*: Condemnation of Conservation Easements
- *S.L. 2009-163*: Ban Certain Single Use Plastic Bags
- *S.L. 2009-499*: Disposal of Pesticide Containers
- *S.L. 2009-483*: Dry Cleaning Solvent Act Amendments
- *S.L. 2009 406 and 572*: Extend Certain Development Approvals
- *S.L. 2009-478*: DWQ/Bridge Culvert Standards
- *S.L. 2009-92*: Update NPDES Permitting for CAFOs
- *S.L. 2009-337*: Promote Mitigation Banks
- *S.L. 2009-486*: Improve Upper Neuse Basin Water Quality
- *S.L. 2009-332*: Stormwater Controls for Compost
- *S.L. 2009-216* (also part of *S.L. 2009-484*): Restore Water Quality in Jordan Reservoir.

Their report also included review of the following pending legislation:

- *SB 1068/HB809*: Permitting of Wind Energy Facilities
- *Sec. 6.17 S.L. 2009-574/HB 643*: Study Reclaimed Water
- *Sec. 9, House Bill 1099*: Limit transfers of water from the Catawba River Basin under the Concord and Kannapolis interbasin transfer certificate (Amend Environmental Laws)
- *Sec. 10, House Bill 1099*: Create the Yadkin River Trust to acquire and operate the Yadkin Project (Amend Environmental Laws)
- *HB 1426, HB 1427, SB 887*: Amend Electronics Recycling Laws.

With no discussion regarding recent or pending legislation, Chairman Allen thanked Ms. McGinnis and Ms. Mundt for their hard work. She then recognized Dee A. Freeman, Secretary of the Department of Environment and Natural Resources.

Report from the Secretary of Environment and Natural Resources (DENR)

Secretary Freeman thanked Chairman Allen as he approached the podium, and then turned toward membership and thanked members for the opportunity to speak.

The Secretary began saying “a number of things have happened or are happening” since his last appearance at a Commission meeting.

Working with the Governor’s office, Secretary Freeman is “looking at developing a new strategic plan,” working in the new Governor’s agenda. There are “wonderful” items on her agenda, he continued, but one issues prevails always: the issue of economics.

His department finished their last fiscal year within budget, because of, he said, “good planning by (our) fiscal staff, management and division heads. He then said that he longs for the day he can converse with fiscal staff and it be a pleasant conversation. Looking to the immediate future, Secretary Freeman acknowledged having to stretch his budget, and that he will continue to have to, until the economy further recovers. His department is managing roughly \$150 million in American Reinvestment and Recovery Act funds; the majority of the funds are used for water and sewer projects. He commented on bills that have recently passed

Since becoming secretary, Mr. Freeman has visited DENR’s seven regional offices. He was impressed with his staff: “What a great group of folks there are out there working for the State.” And since becoming secretary, he has reached out to “stakeholders and has created three environmental roundtables.

He then began outlining goals for the department:

- Sustaining water for the future.
- Sustaining clean air: plan was vetted through senior management, through all division directors, including people from all across the state. Plan is currently at the Governor’s office for any additional comments. He noted the Clean Smokestacks Act and how that act allowed the State to be in a leadership position. He then said the next step is to get a handle on diesel emissions.
- Growing a green economy: This is an issue that is “truly important to the State,” he said.
- Sustaining working lands and farmlands: The Secretary noted that there was a lot of work to be done to better this goal.
- Climate change: This is an issue that the State “must get a handle on,” he said, adding that any solutions are “long term.”
- More effective environmental legislation: DENR has a “entire list of action statements on how to do a better job with the legislature, local governments and businesses.
- Growing visitor attraction: the State has a lot of assets, he said, including great parks.
- Customer service: he said it was a priority that his department be “friendly,” no matter with whom they are dealing.

After reviewing seven of the eight goals, Secretary Freeman returned to the goal of sustaining water for the future. He is looking to implement the Drought Management Plan. Currently, he reported, DENR officials are considering a statewide management plan. He then discussed rule changes for Jordan Lake, praising the work of Environmental Management Commission Chairman Steve Smith and the commission itself.

He said there would be changes in water permitting and the process would be streamlined for the customer. Partnerships would be created with the Rural Center and other more localized organizations.

Chairman Allen recognized Representative Tarleton, who said he was pleased to hear discussion about strategic planning. He followed up asking how the Secretary planned to ensure strategic plan goals are achieved. Secretary Freeman answered that leadership meetings will occur every month, and that current goals would stay under constant review.

Senator Kinnaird was recognized, who said that idling trucks were a problem, and asked if the Secretary planned to “do anything about that.” Secretary Freeman answered that there is already a conversation to address the issue. Senator Kinnaird followed up asking of vacant position at a dam site. Secretary Freeman answered that the vacant positions were eliminated because of the State’s budget shortfall.

Chairman Allen thanked Secretary Freeman. She said that the Commission looks forward to working again with DENR, and also complimented NCDR staff, saying they are “excellent.”

Quarterly reports by the Environmental Management Commission (EMC) as to its operations, activities, programs for the period of January 2009 through September 2009 (G.S. 143B-282(b)); and annual report on the desirability of requiring and the feasibility of obtaining reductions in emissions of NOx and SO2 beyond those required by the “Clean Smokestacks Act” (S.L. 2002-4, Sec. 11

Chairman Smith began saying he was appointed by the Governor. He then reviewed membership of the commission. A powerpoint presentation accompanied his report. The report may be accessed via the Internet or CD.

He then began to review the rule making process. There are four principal sources that beget rule making: State statutory authority, legislative directive, federal delegation or petition for rule making.

Chairman Smith expects additional reports presented to the EMC at their November 2009 and January 2010 meeting regarding Falls Lake. Public hearings should ensue in the early spring. He continued saying the EMC had an “optimistic” schedule and that Jordan Lake rules have “substantially benefited” the State. He then addressed the issue of idling trucks.

Senator Bingham was recognized. He commented that his business has used several trucks across the country, and that those trucks have plug-ins at truck stops. He continued that a majority of trucks do not have the capacity for plug-ins.

Senator Kinnaird followed up saying she grew up in Minnesota, where people often plug in their vehicles.

Chairman Smith then reviewed recent changes to the arsenic standard. Previously, that standard was .02 parts per billion; the EMC has reduced the standard to .01 parts per billion. He continued saying there was some concern that the new standard is too low if it is economically and technologically feasible at all.

Regarding the proposed Kerr Lake Interbasin Transfer, public meetings were held in April 2009. Notice was given to 37 newspapers, seven of which were in Virginia. Total costs for the notices was \$22,000.

Senator Kinnaird asked if there was a way to electronically send a notice of public hearing. Chairman Smith said that was an excellent question, adding that there is discussion to use more electronic and less print sources. Senator Kinnaird followed up saying that she did not want to put newspapers out of business.

Chairman Allen said she sees notification as a responsibility of a county. Senator Swindell said electronic communication would be much more effective in reaching local governments.

Mr. Hudson said that there were extensive statutory requirements for public notices, including options for electronic notification. .

Chairman Allen said she hoped the Commission would develop substantive recommendations before beginning the short session. Mr. Hudson asked members to take note of agendas and future meeting topics. As discussion quelled and speakers completed their reports, Chairman Allen adjourned the meeting to meet again November 15, 2009 in Room 544 of the Legislative Office Building.

The meeting was adjourned at 11 a.m.

Approved at February 18, 2010 meeting.